

Regulated Industries Complaints Office

The Regulated Industries Complaints Office (RICO) is responsible for receiving, investigating, and prosecuting complaints relating to the laws and rules administered by the Commission.

In fiscal year 1996, there were 231 real estate related complaints, down 11% from last year's 260 complaints. There were

also 4 complaints related to the condominium property regime, Chapter 514A, HRS.

Of the 231 real estate complaints, 100 were closed and 131 pending at the end of the fiscal year. The closed cases were closed for the following reasons: 12 resolved or withdrawn, 10 insufficient evidence, 14 no violation, 42 advisory

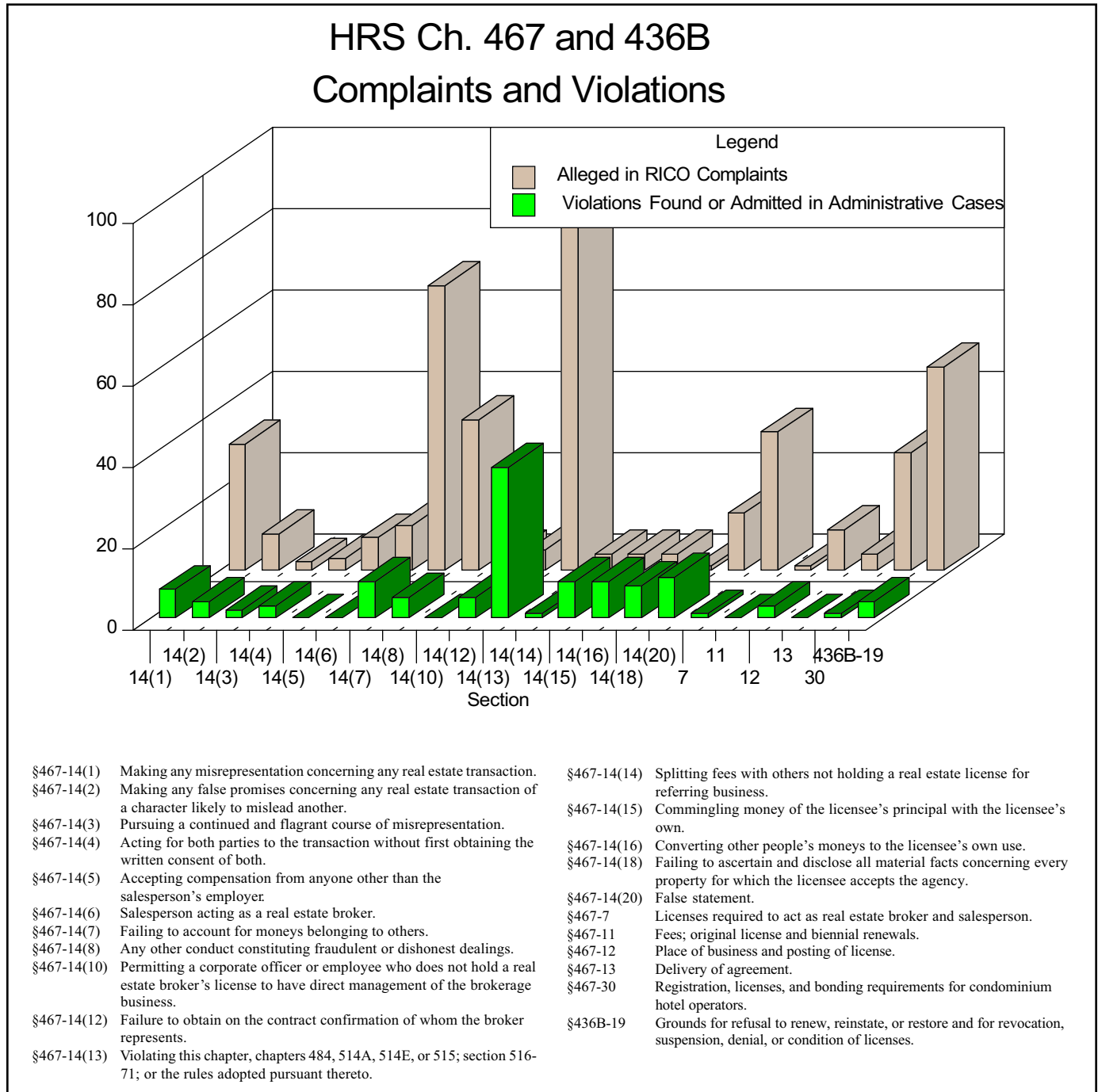


Fig. 15

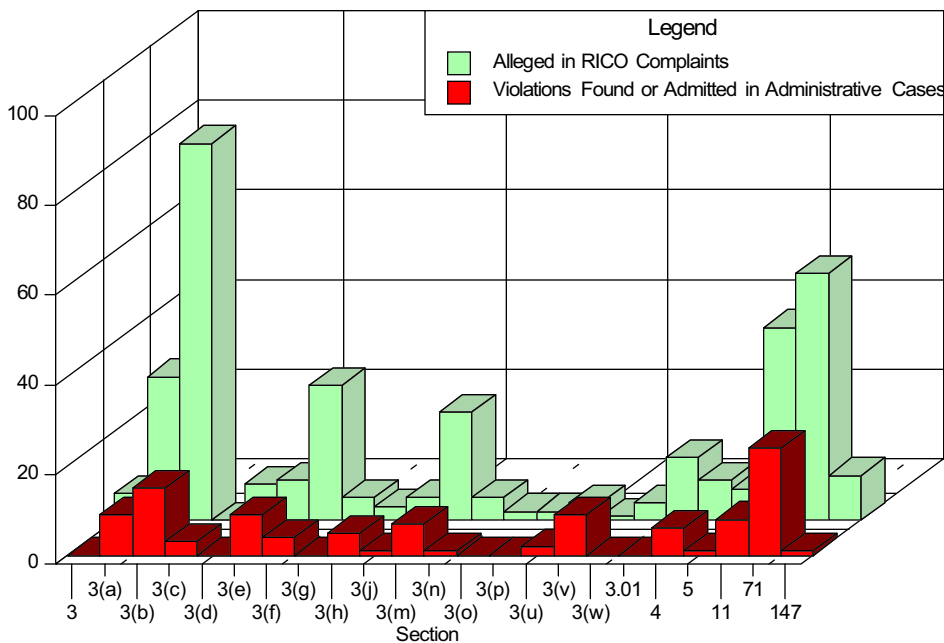
Regulated Industries Complaints Office

letters sent, and 22 for other reasons (no jurisdiction, civil, records only, etc.). Figures 15 and 16 depict the number of complaints and violations of specific provisions of Chapters 467 and 436B, HRS, and Chapter 99, HAR.

The number of violations represents the number of dis-

ciplinary cases in which a violation of a specific section was admitted to by the respondent or found by the Commission following an administrative hearing. Figure 21 shows the number of real estate related complaints received by RICO for the calendar years 1988 through 1995.

Rules Ch. 99 Complaints and Violations



§16-99-3 Conduct.

§16-99-3(a) To fully protect the general public in its real estate transactions.

§16-99-3(b) Licensee shall protect the public against fraud, misrepresentation, or unethical practices in the real estate field.

§16-99-3(c) Licensee shall not be party to the naming of a false consideration in any document.

§16-99-3(d) Licensee shall recommend that title be examined, survey be conducted, or legal counsel be obtained when the interest of either party requires it.

§16-99-3(e) Broker shall keep moneys held in trust for others in separate bank accounts.

§16-99-3(f) Licensee shall see that financial obligations and commitments are in writing.

§16-99-3(g) Licensee shall not acquire property listed with the licensee's firm without informing the principal broker.

§16-99-3(h) Licensee shall not acquire an interest in property listed with the licensee or his firm without making the true position known in writing to the listing owner.

§16-99-3(j) Licensee shall immediately transmit all written offers in any real estate transaction to the listing broker who has a written unexpired exclusive listing contract.

§16-99-3(m) There shall be a principal broker or broker in charge at the principal place of business and a broker in charge at a branch office who shall be immediately responsible for the real estate operations conducted.

§16-99-3(n) A broker shall maintain a place of business located in this state at a business address registered with the Commission from which

the broker does, in fact, conduct business and where the broker's books and records are maintained.

§16-99-3(o) Principal broker or broker in charge to advise the Commission in writing in advance about an absence of more than 14 calendar days.

§16-99-3(p) No licensee shall act as a broker-salesperson, or salesperson for more than one firm or office.

§16-99-3(u) Licensee shall not add to or modify the terms of an instrument previously signed or initiated by a party to a transaction without written consent of all the parties.

§16-99-3(v) Licensee shall not convert other people's moneys to licensee's own use.

§16-99-3(w) Violation of any part of this chapter may be cause for revocation or suspension of license.

§16-99-3.1 Disclosure of agency.

§16-99-4 Every broker who does not immediately place all funds entrusted to the broker in a neutral escrow depository shall maintain a trust fund account in this state with some bank or recognized depository and place all entrusted funds therein.

§16-99-5 Each licensee shall file his or her residence and mailing address with the Commission and notify the Commission of any change in writing within 10 days of change.

§16-99-11 Violation of advertising rule.

§16-99-71 The real estate activities of each firm shall be under the direct management and supervision of a principal broker.

§16-99-147 Condominium hotel registration required.

Fig. 16

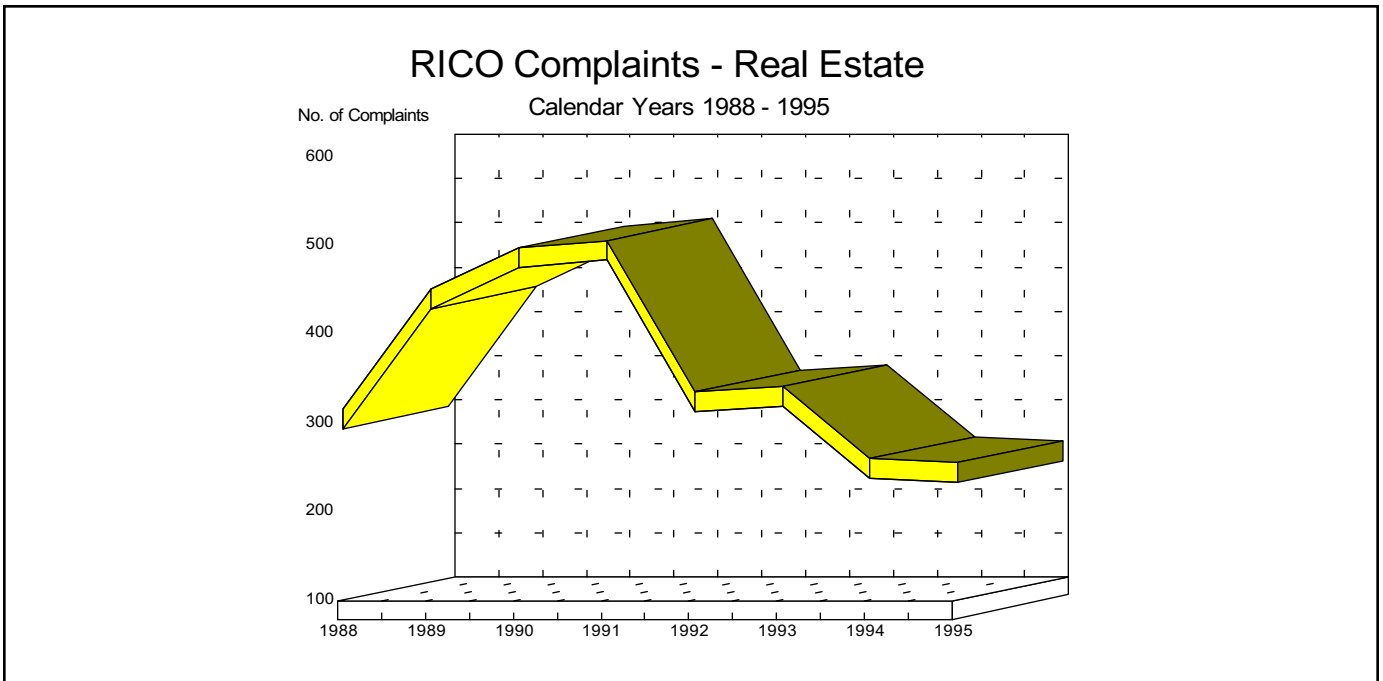


Fig. 17

Administrative Actions

In fiscal year 1996, the Commission took action against 74 licensees, 57% more than the 47 licensees last year. 10 licenses were revoked, 8 suspended, and 56 fined. In addition, 23 licensees were ordered to pay restitution and 3 were ordered to enroll in real estate courses. Multiple sanctions were imposed against a number of licensees. License suspensions ranged from 6 to 18 months and fines ranged from \$250 to \$38,000. A total of \$88,650 in fines and \$309,018 in restitution were

ordered. Figure 17 shows the number of complaints filed with the Regulated Industries Complaints Office (RICO) from calendar year 1988 through calendar year 1995. Figure 18 shows the distribution of actions by type of activity from fiscal year 1992 through fiscal year 1996. Figure 19 shows the total number of licensees disciplined from fiscal year 1987 through fiscal year 1996, breaking down the number of licenses revoked, suspended, and fined.

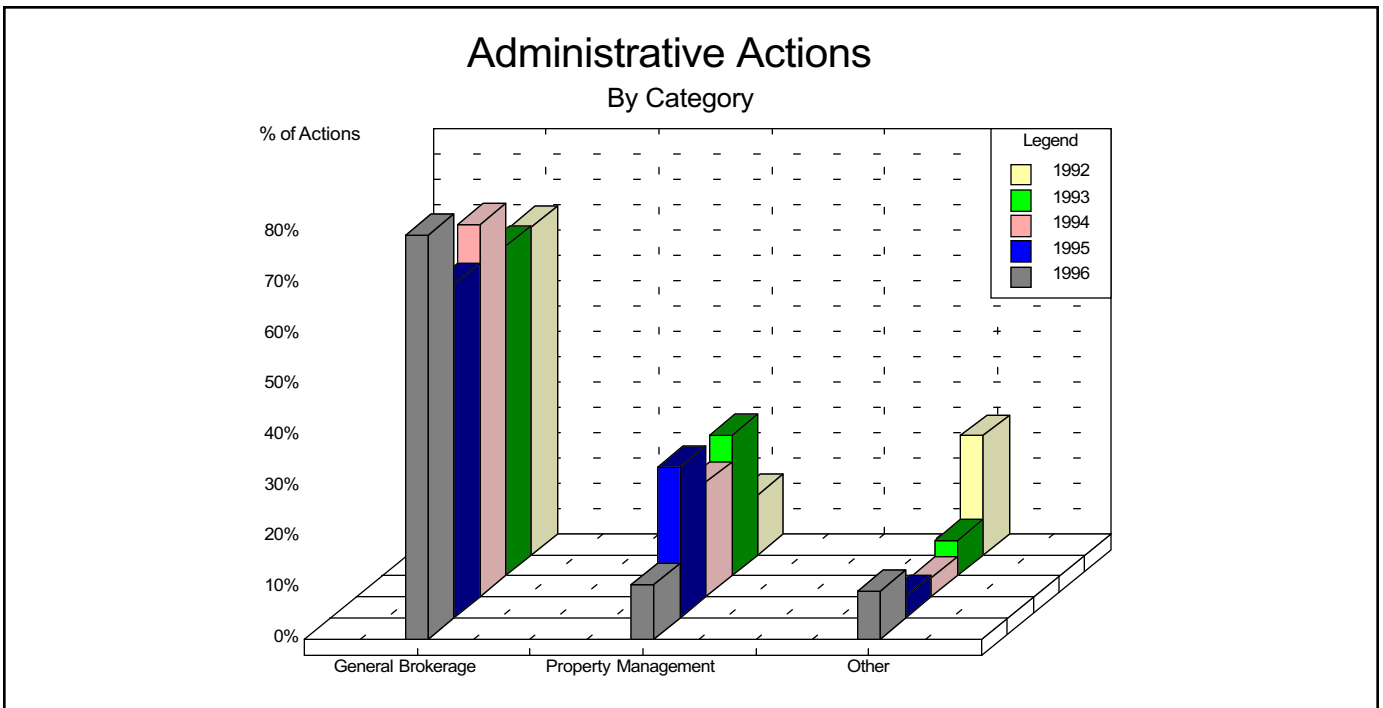


Fig. 18

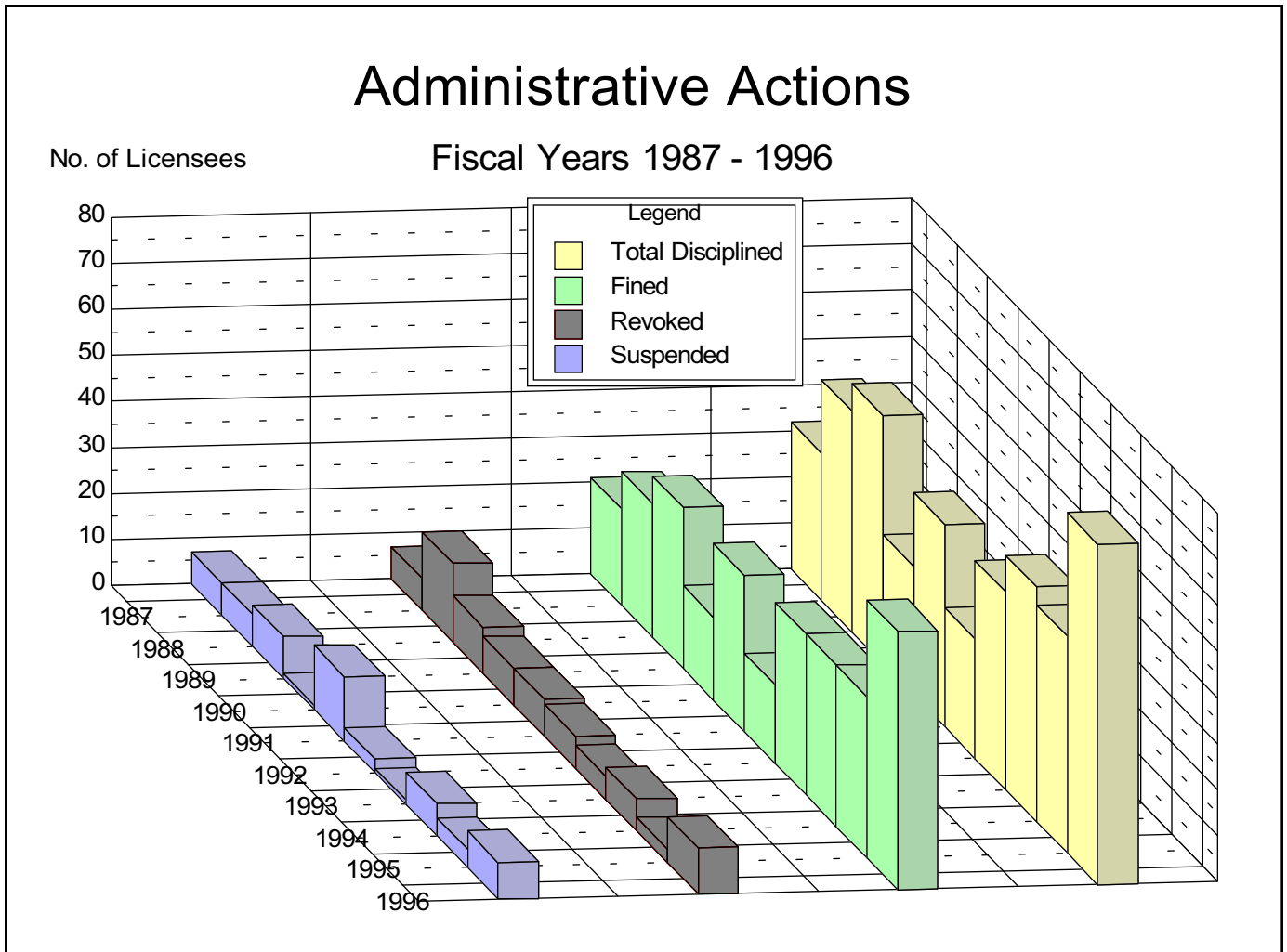


Fig. 19

Financial Information

REAL ESTATE EDUCATION FUND

As fiscal year 1996 was not a renewal year, revenues to the real estate education fund were derived from new licenses issued and income from investment of the fund and the real estate recovery fund. Revenues for the year totaled \$136,298.

Significantly reduced expenditures of \$367,227 in 1996 reflect the Commission's efforts at controlling expenses. By comparison, expenditures in 1995 were \$555,367.

CONDOMINIUM MANAGEMENT EDUCATION FUND

Because the condominium management education fund's revenues are based on new projects and annual association registration fees, revenues have been relatively consistent from year to year. In 1996, revenues totaled \$269,828 compared to \$270,572 in 1995.

Beginning in 1997, however, association registration will

change from an annual basis to a biennial basis, and revenues will change to a two year cycle, as with the real estate education fund.

Expenditures of \$243,883 were significantly lower than last year's \$308,551 and resulted in an end of year unreserved fund balance of \$462,491.

REAL ESTATE RECOVERY FUND

Since the real estate recovery fund's sole source of revenues is new licensees, over the past five years, revenues have suffered in step with the decline in new licensees. In 1996, revenues fell to \$55,191, compared to \$57,872 last year. Claims paid from the fund are unpredictable because they depend on litigation through the civil court system. In 1995, no claims were paid. In 1996, the fund paid out \$105,554 in claims in four cases involving three licensees.

One of the statutory prerequisites to obtaining payment from the fund is to notify the Commission of a possible claim at the time an action is filed in court. During 1996, the Commission received notice of 27 actions filed. This is a slight increase over the 22 notices received in 1995.